



## CUSTOMS (RELIEF FROM A LIABILITY TO IMPORT DUTY) REGULATIONS 2021

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Statutory Document No. 2021/0042



*Taxation (Cross-border Trade) Act 2018*

## **CUSTOMS (RELIEF FROM A LIABILITY TO IMPORT DUTY) REGULATIONS 2021<sup>1</sup>**

*Laid before Tynwald: 16 March 2021*

*Coming into Operation in accordance with regulation 2*

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The Treasury makes the following Regulations under sections 19, 23(3) and (7) and 32(8) and (10) of, and paragraph 6 of Schedule 1, paragraphs 3(1)(a) and 10 of Schedule 6 and paragraph 1(3)(c) of Schedule 7 to, the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island<sup>1</sup>.

### **1 Title**

These Regulations are the Customs (Relief from a Liability to Import Duty) Regulations 2021.

### **2 Commencement**

- (1) These Regulations come into operation when they are made<sup>2</sup>.
- (2) However, when they are made, they shall be deemed to have come into operation<sup>3</sup> on IP completion day<sup>4</sup>.

### **3 Interpretation**

- (1) In these Regulations —
  - “the Act” means the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island;
  - “claimant” means a person who makes a claim for relief;

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<sup>1</sup> The Taxation (Cross-border Trade) Act 2018 was applied in the Island by SD 2019/0080.

<sup>2</sup> Tynwald procedure – negative under section 32(6) of the Act.

<sup>3</sup> Regulation 32(6A) of the Taxation (Cross-border Trade) Act 2018, as it has effect in the Island, provides that Regulations made under Part 1 of that Act may be made retrospective and be deemed to have come into operation from a date not earlier than the date when the legislation corresponding to the Regulations came into effect in the United Kingdom. In this case the date is IP completion day.

<sup>4</sup> “IP completion day” has the meaning given in the European Union and Trade Act 2019.

- “claim for relief” means a claim made in accordance with Part 3 or, where applicable, Part 4 that relief be granted in respect of goods;
- “consignee” means a person to whom goods which have been imported are to be delivered as the final recipient of the goods;
- “eligibility criteria” means criteria described in a section of the UK Reliefs document which must be met in order that a claim for relief under the section may be granted;
- “Import Duty Regulations” means the Customs (Import Duty) Regulations 2019<sup>5</sup>;
- “officer” has the same meaning as in section 184(1) of the Customs and Excise Management Act 1986;
- “prior approval” means an eligibility criterion or a relief condition which requires that a relevant person —
- (a) falls within a class of persons described in a section of the UK Reliefs document; or
  - (b) holds an approval which may be granted by the Treasury;
- “relevant person” means a claimant, a consignee, a transferee or person to whom goods are hired or loaned;
- “relief” means full or partial relief from a liability to import duty;
- “relief condition” means a condition described in a section of the UK Reliefs document which is expressed to apply to a relevant person where a claim for relief under the section is granted by the Treasury;
- “transferee” means a person, other than a claimant or consignee, who may use goods in respect of which a claim for relief has been, or may be, granted;
- “UK Reliefs document” means the document entitled “United Kingdom Customs Tariff: Reliefs from Import Duty”, version 1.2 dated 22 March 2021<sup>6</sup> which includes sections that describe —
- (a) cases where a claim for relief may apply, expressed by reference to —
    - (i) the goods to which the section applies;
    - (ii) the persons who may be a claimant or consignee for the purposes of the section; and
    - (iii) the eligibility criteria which apply for the purposes of the section;
  - (b) any relief conditions which apply for the purposes of the section; and
  - (c) whether relief is full or partial in any case.<sup>2</sup>

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<sup>5</sup> SD 2019/0152, as amended.

<sup>6</sup> <https://www.gov.uk/government/publications/reference-documents-for-the-customsreliefs-from-a-liability-to-import-duty-and-miscellaneous-amendments-eu-exit-regulations2020>

- (2) In these Regulations, a notice or notification means one made in writing and a requirement to notify is to be read accordingly.
- (3) A notice published by the Treasury under these Regulations may make different provision for different cases or different purposes.

## **PART 2 – APPLICATION, CLAIMS, WAIVERS, PRIOR APPROVALS AND CONDITIONS**

### **4 Reliefs – application to chargeable goods in Parts 2 to 6**

- (1) Subject to paragraph (2), this Part and Parts 3 to 6 apply to chargeable goods where –
  - (a) a Customs declaration is made in respect of the goods for the free-circulation procedure and the declaration is accepted; and
  - (b) a liability to import duty is incurred in respect of the goods.
- (2) This Part and Parts 3 to 6 do not apply to chargeable goods where –
  - (a) a liability to import duty in respect of the goods is incurred by virtue of section 5(2) of the Act as a result of a relevant failure; and
  - (b) an officer is satisfied that the person who caused the relevant failure did so for the purposes of –
    - (i) avoiding, or enabling any other person to avoid, any Customs obligation that would have applied if the relevant failure had not occurred;
    - (ii) preventing a liability to import duty or charges being incurred by any person; or
    - (iii) preventing the application of any non-tariff trade policy measure or agricultural policy measure.
- (3) A relevant failure occurs where any of the following apply –
  - (a) section 5(1) of the Act (goods not presented to Customs);
  - (b) paragraph 1(5) of Schedule 1 to the Act (Customs declaration not made within the 90 day period); or
  - (c) paragraph 3(4) of Schedule 1 to the Act (Customs declaration not made before goods are imported).
- (4) In this regulation –

“agricultural policy measure” means a provision made by or under any enactment relating to the import and export of goods specified at points (1), (2) and (3) of the document entitled “Sensitive Goods” published on 27 November 2018<sup>7</sup>;

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<sup>7</sup> The document entitled “Sensitive Goods” is available at <https://www.gov.uk/government/publications/sensitive-goods>

“charges” means —

- (a) fees under Part 14 of the Import Duty Regulations;
- (b) interest payable for late payment of import duty; and
- (c) penalties under Part 3 of the Finance Act 2003, as it has effect in the Island<sup>8</sup>;

“Customs obligation” means any obligation or requirement imposed by or under —

- (a) the Act in relation to a duty of customs; or
- (b) the Customs and Excise Management Act 1986;

“non-tariff trade policy measure” means a provision made by or under any enactment relating to government policy in respect of international trade in goods, other than provisions relating to the amount of import duty.

## 5 Granting claims for relief

A claim for relief must be granted by the Treasury if —

- (a) the claim is made by reference to a case described in a section of the UK Reliefs document;
- (b) the goods to which the claim relates are of a type which fall within the description of goods given in the section;
- (c) the person making the claim falls within the description of claimant given in the section;
- (d) where applicable, the claimant is not also the consignee of the goods and the consignee falls within the description of consignee given in the section; and
- (e) subject to regulation 6, the eligibility criteria of the section are met.

## 6 Waiver of eligibility criteria

(1) The Treasury may grant a claim for relief even where an eligibility criterion is not met if —

- (a) the criterion is described in the section of the UK Reliefs document as being subject to “exceptional waiver”; or
- (b) the criterion —
  - (i) is described in a section of the UK Reliefs document which is described as “Returned Goods Relief”; and
  - (ii) provides that the goods to which the section applies must be imported no more than 3 years after the date on which they were exported, and

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<sup>8</sup> Part 3 of the Finance Act 2003 was applied to the Island by SD 843/03, as amended.

the Treasury considers that by reason of circumstances described in the relevant section of the UK Reliefs document, it would be reasonable to allow the criterion to be waived.

- (2) A claimant may apply to the Treasury for approval of a waiver in accordance with paragraph (1).

## **7 Prior approvals: applications and transitional provision**

- (1) This regulation applies where a person is required to hold a prior approval granted by the Treasury.
- (2) The person may apply to the Treasury for the prior approval to be granted.
- (3) The Treasury must grant the prior approval if the conditions set out in the section of the UK Reliefs document in relation to granting the approval are met.
- (4) Paragraph (5) applies where —
  - (a) the Treasury issued an approval (“the EU approval”) in respect of a case (“the EU case”) of a relief from a liability to an EU customs duty;
  - (b) the EU case is equivalent to a case for relief (“the UK case”) set out in a section of the UK Reliefs document; and
  - (c) the EU approval is equivalent to a prior approval required for the purposes of the UK case.
- (5) Subject to paragraph (6), a person who holds the EU approval is to be treated as a person who holds the prior approval required for the purposes of the UK case.
- (6) Paragraph (5) does not apply if the person to whom the EU approval was granted does not satisfy the eligibility criteria which must be met by applicants for prior approval for the purposes of the UK case.
- (7) A prior approval does not apply in relation to a claim for relief in relation to goods which were presented to Customs on import<sup>9</sup> more than one year before the grant of the approval.

## **8 Relief conditions**

- (1) Where a section of the UK Reliefs document includes a relief condition, any claim for relief is granted subject to compliance with the condition by each person to whom the condition is described in the section as applying.
- (2) Paragraphs (3) and (4) apply where —

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<sup>9</sup> Section 34(2) of the Act provides for the time at which goods are presented to Customs on import.

- (a) a relief condition provides that the goods to which a section of the UK Reliefs document applies may not be transferred, hired or loaned without the approval of the Treasury; and
  - (b) the consignee intends to make such a transfer, hire or loan.
- (3) The consignee may apply to the Treasury for approval of the transfer, hire or loan.
- (4) Where a relief condition would apply to a transferee or person to whom the goods are hired or loaned (“P”) if a transfer, hire or loan were approved, the Treasury may approve the transfer, hire or loan subject to the Treasury being satisfied that P is aware that P must comply with the relief condition.
- (5) The Treasury may require a person to whom a relief condition would apply if relief is granted to provide a guarantee to be drawn upon by the Treasury in circumstances where a liability to import duty is incurred in consequence of a breach of the condition.
- (6) Part 10 of the Import Duty Regulations applies to such a guarantee.
- (7) Paragraph (8) applies where —
  - (a) a relief condition is described in a section of the UK Reliefs document as being subject to “exceptional waiver or variation”; and
  - (b) the person to whom the condition applies, or would apply, makes an application to the Treasury for approval of a waiver or variation of the condition.
- (8) The Treasury may waive or vary the condition, as the case may be, if it considers, that by reason of circumstances described in the relevant section of the UK Reliefs document, it would be reasonable to do so.

## **9 Applications for waivers, variations and prior approvals**

Regulations 91 to 97 of the Import Duty Regulations apply in relation to an application for approval of —

- (a) a waiver under regulation 6(2);
- (b) a prior approval under regulation 7(2);
- (c) a transfer, hire or loan under regulation 8(3);
- (d) a guarantee under regulation 8(5); and
- (e) a waiver or variation under regulation 8(7)(b).



## PART 3 – GENERAL CLAIMS FOR RELIEF

### 10 Making a claim

- (1) A claim for relief in respect of goods may be made –
  - (a) in the Customs declaration made in respect of the goods or at the same time as that declaration is made;
  - (b) where applicable, in accordance with Part 4; or
  - (c) at any time before the expiry of the period of 3 years beginning with the date on which notification is given by the Treasury of the liability to import duty in respect of the goods.
- (2) But no claim for relief may be made where a claim for the relief was previously made and determined.
- (3) A claim must be made in the form and manner specified in a notice published by the Treasury.

### 11 Information and evidence in relation to claims

- (1) Except where a claim is made in accordance with Part 4, a claim for relief must identify –
  - (a) the case for relief relied upon which is described in a section of the UK Reliefs document;
  - (b) the goods in respect of which the claim is made;
  - (c) the claimant;
  - (d) the consignee, if that person is different from the claimant; and
  - (e) how any eligibility criteria applicable to the relief claimed are met.
- (2) Identification of the goods must be made by way of providing the applicable classification code for the goods as set out in the customs tariff<sup>10</sup>.
- (3) A claimant must provide evidence to support the matters in paragraph (1).
- (4) A claim for relief is treated as not made unless the claimant also provides to the satisfaction of an officer evidence to support the matters in paragraph (1).
- (5) Where a relief condition would apply to a relevant person if a claim for relief were granted, the Treasury may require the claimant to provide to the satisfaction of an officer evidence to support how the relevant person intends to comply with the condition.
- (6) The Treasury may publish a notice setting out the evidence required in support of a claim.

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<sup>10</sup> “The customs tariff” is defined in section 8 of the Act.

## 12 Notifications further to a claim for relief

- (1) This regulation applies to a claim for relief other than a claim made under regulation 14 or 15.
- (2) Notification of receipt of the claim for relief must be given by the Treasury to the claimant —
  - (a) as soon as practicable after the date on which the Treasury receives the claim and the evidence required in support of the claim; and
  - (b) in any event by no later than the expiry of the period of 30 days beginning with that date.
- (3) Subject to regulations 16(2) and 17(2), notification that the Treasury has determined to grant or refuse a claim for relief must be given to the claimant, and the Treasury must do so —
  - (a) in relation to a claim for partial relief or where the Treasury has determined to refuse a claim, with the notification of liability to import duty in respect of the goods to which the claim relates, unless that notification of liability has been given before the date of the determination; and
  - (b) as soon as practicable after the date on which notification is given under paragraph (2) and in any event by no later than the expiry of the period of 120 days beginning with that date.
- (4) Reasons for a refusal must be given with the notification of the determination.
- (5) Where the Treasury fails to comply with paragraph (2) or (3), the claim is to be treated as refused.

## PART 4 – SPECIAL CLAIMS FOR RELIEF

### 13 Goods imported by post

- (1) This regulation applies to goods imported by post where the outer packaging of the goods is marked to show clearly that relief may be applicable to the goods.
- (2) The Treasury must notify the recipient of the posted goods as soon as practicable after the goods are imported —
  - (a) that relief may be applicable to the goods;
  - (b) how a claim for relief may be made by the consignee; and
  - (c) of the evidence required to support a claim.
- (3) The Treasury may publish a notice setting out —
  - (a) the evidence required to support a claim; and

- (b) the type of marking on the outer packaging of goods which is sufficient to show clearly that a relief may be applicable to the goods contained within the packaging.
- (4) Where the Treasury determines to grant the relief claimed, notification of the grant is given by the Treasury giving consent to the delivery of the goods to the consignee.

#### **14 Goods where Customs declaration made orally**

- (1) This regulation applies to chargeable goods in respect of which a Customs declaration is made orally, as provided for by regulation 18 of the Import Duty Regulations, in cases within regulations 19 and 20 of those Regulations.
- (2) On making an oral declaration in accordance with regulation 18(3)(a) of the Import Duty Regulations, an individual is treated as making a claim for relief in respect of the chargeable goods.
- (3) When an officer gives the information described in regulation 18(3)(b) of the Import Duty Regulations, the Treasury is treated as granting the claim for relief.
- (4) Where the claim is for partial relief, the Treasury must give notification of liability to import duty in respect of the goods to which the claim relates with the information described in regulation 18(3)(b) of the Import Duty Regulations.
- (5) Where an officer does not give the information described in regulation 18(3)(b) of the Import Duty Regulations —
  - (a) the claim is treated as refused; and
  - (b) the Treasury must give a notification of the determination to refuse the claim with the notification of liability to import duty in respect of the goods to which the claim relates.
- (6) Reasons for a refusal must be given with the notification of the determination.

#### **15 Goods where Customs declaration made by conduct**

- (1) This regulation applies to chargeable goods in respect of which a Customs declaration is made by conduct in accordance with regulation 25, 26, 28A, 28B, 28D or 28E of the Import Duty Regulations.<sup>3</sup>
- (2) The individual is treated as making a claim for relief in respect of the chargeable goods, as the case may be —
  - (a) on —
    - (i) entering the channel of a Customs office;
    - (ii) entering the lane past a Customs office;

- (iii) disembarkation from the vessel;
  - (iv) entering the limits of the port; or
  - (v) loading goods, or allowing goods to be loaded, onto a vehicle,  
as described in regulations 25, 26 and 28A of the Import Duty Regulations;
  - (b) in the case of a declaration by conduct in accordance with regulation 28B of those Regulations –
    - (i) where a report is made for the purposes of section 27 of the Customs and Excise Management Act 1986 (“a section 27 report”) before the aircraft arrives in the Island, on making the report; or
    - (ii) where a section 27 report is made after the aircraft arrives in the Island, on arrival in the Island;
  - (c) in the case of a declaration by conduct in accordance with regulation 28D of those Regulations, when the conduct occurs.
- (3) The Treasury is treated as granting the claim for relief on, as the case may be –
- (a) the individual exiting the channel;
  - (b) the individual exiting the lane;
  - (c) in the case of conduct in accordance with regulation 26(7) of the Import Duty Regulations, the individual driving the vehicle across the boundary of the RoRo listed location, or the individual allowing himself or herself to be carried in the vehicle which is so driven;
  - (d) in the case of conduct in accordance with regulation 28A of those Regulations, the completion of the procedure for making a report under regulation 6 of the Pleasure Craft (Arrival and Report) Regulations 1996<sup>11</sup>;
  - (e) in the case of conduct in accordance with regulation 28B of those Regulations –
    - (i) where a section 27 report is made before the aircraft arrives in the Island, arrival of the aircraft in the Island; or
    - (ii) where a section 27 report is made after the aircraft arrives in the Island, the report being made;
  - (f) in the case of conduct in accordance with regulation 26(7A) of those Regulations, the individual driving the vehicle across the boundary of the other listed location, or the individual allowing himself or herself to be carried in the vehicle which is so driven,

unless a notification is given by the Treasury in accordance with paragraph (4).

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<sup>11</sup> SD 444/96.

- (4) Notification that the Treasury has determined to refuse the claim for relief must be given —
  - (a) before, as the case may be —
    - (i) the claimant has exited the channel;
    - (ii) the claimant has exited the lane;
    - (iii) the claimant has crossed the boundary;
    - (iv) the procedure referred to in paragraph (3)(d) has been completed; or
    - (v) the relevant event referred to in paragraph (3)(e) has occurred; and
  - (b) with the notification of liability to import duty in respect of the goods to which the claim relates.
- (5) Reasons for a refusal must be given with the notification of the determination.
- (6) In the case of conduct in accordance with regulation 28D of the Import Duty Regulations, the Treasury is treated as granting the claim for relief on the occurrence of the conduct.
- (7) In the case of conduct in accordance with regulation 28E of the Import Duty Regulations, the Treasury is treated as granting the claim for relief on the occurrence of the goods importation.<sup>4</sup>

## **16 Goods where an advance electronic declaration is made**

- (1) This regulation applies to chargeable goods in respect of which a claim for relief is made in an advance electronic declaration made in accordance with regulation 43 of the Import Duty Regulations.
- (2) Subject to paragraph (4), the Treasury is treated as granting the claim for relief on the claimant, as the case may be —
  - (a) exiting the channel of a Customs office;
  - (b) exiting the lane past a Customs office; or
  - (c) crossing the boundary of the RoRo listed location or the other listed location,as described in regulation 43(3), (9) or (11) of the Import Duty Regulations, unless a notification is given by the Treasury in accordance with paragraph (3) and no notification that the Treasury has determined to grant the claim for relief is required to be given to the claimant.
- (3) Notification that the Treasury has determined to refuse the claim for relief must be given —
  - (a) before the claimant has, as the case may be —
    - (i) exited the channel;
    - (ii) exited the lane; or

- (iii) crossed the boundary; and
- (b) with the notification of liability to import duty in respect of the goods to which the claim relates.
- (4) Where regulation 43(5) of the Import Duty Regulations (goods delayed in transit) applies, the Treasury is treated as granting the claim for relief at the time the officer is satisfied that the goods have been presented to Customs on import unless a notification that the Treasury has determined to refuse the claim is given with the notification of liability to import duty in respect of the goods to which the claim relates.
- (5) Reasons for a refusal must be given with the notification of the determination.

## **17 Goods where an advance declaration is made - other chargeable goods**

- (1) This regulation applies to chargeable goods in respect of which a claim for relief is made in an advance declaration made in accordance with regulation 45 of the Import Duty Regulations.
- (2) The Treasury is treated as granting the claim for relief when the Treasury notifies the claimant under paragraph 11(1) of Schedule 1 to the Act and no notification that the Treasury has determined to grant the claim for relief is required to be given to the claimant.

## **PART 5 – REPAYMENT**

## **18 Repayment of import duty**

- (1) Where —
  - (a) a claim for relief is granted in respect of goods; and
  - (b) a person has paid a liability to import duty in respect of the goods before the claim is granted,the Treasury must, when notification of the grant is given, repay the person the amount of relief granted.
- (2) Paragraph (3) applies where —
  - (a) a period of 30 working days has expired since the date that a notification of the grant is given;
  - (b) the Treasury has failed to repay some or all of the import duty required to be repaid; and
  - (c) that failure is substantially the fault of the Treasury.
- (3) The Treasury must pay interest at the applicable rate on the amount unpaid for the period —
  - (a) beginning with the day after the date on which the period mentioned in paragraph (2)(a) expires; and

- (b) ending with the date on which the amount is paid in full.
- (4) In this regulation –
  - (a) “the applicable rate” means the rate of interest provided by regulations for the purposes of section 197(2)(f) of the Finance Act 1996<sup>12</sup>, as it has effect in the Island;
  - (b) “working day” means any day except –
    - (i) a Saturday or Sunday;
    - (ii) Good Friday or Christmas day; or
    - (iii) a bank holiday within the meaning of section 1 of the Bank Holidays Act 1989.

## **PART 6 – BREACH OF CONDITIONS**

### **19 Notification of breach of conditions**

- (1) Paragraph (2) applies where –
  - (a) a claim for relief is granted and a relief condition applies to a person; and
  - (b) a breach of the condition occurs.
- (2) The person must –
  - (a) notify the Treasury as soon as practicable of details of the breach, including when it occurred or first commenced to occur; and
  - (b) make the notification in such form and accompany it with such additional information or documentation as the Treasury may provide by notice.

### **20 Liability to import duty on a breach of a condition**

- (1) Where a claim for relief is granted in respect of goods and a person breaches a relief condition which applies, the person is liable to import duty in respect of the goods.
- (2) Paragraph (3) applies for the purposes of determining the date (“the relevant date”) –
  - (a) on which the liability arises; and
  - (b) by reference to which the applicable rate of import duty is to be determined.
- (3) The relevant date is –

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<sup>12</sup> Section 197 of the Finance Act 1996 was applied in the Island by SD 493/96, as amended by SD 507/99 and SD 271/09.

- (a) the date stated in the notification required to be made under regulation 19(2) as the date on which the breach occurred or first commenced to occur; or
- (b) where –
  - (i) details of the breach are not notified to the Treasury as required; or
  - (ii) the Treasury is not satisfied with the details notified, the date on which the Treasury reasonably considers is the date that the breach occurred or first commenced to occur.
- (4) It is to be presumed that the person is notified of the liability on the relevant date.

## PART 7 – AUTHORISED USE

### 21 Lower rate of import duty – goods declared for an authorised use procedure

- (1) Paragraph (2) applies to chargeable goods where –
  - (a) a Customs declaration is made in respect of the goods for an authorised use procedure and the declaration is accepted;
  - (b) the goods are of a type described in the authorised use rates document; and
  - (c) a liability to import duty is incurred in respect of the goods.
- (2) Subject to paragraph (3), the rate of import duty which applies to the goods is that which is stated as applicable to the goods in the authorised use rates document which must be lower than the applicable rate in the customs tariff in its standard form.
- (3) Paragraph (2) does not apply where the rate of import duty which would apply by virtue of that paragraph is higher than the rate which would apply by virtue of any provision made under any of sections 9 to 15 of the Act.
- (4) In this regulation, “authorised use rates document” means the document entitled, “Authorised Use: Eligible goods and rates”, version 1.2 dated 19 July 2021<sup>13,5</sup>

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<sup>13</sup> <https://www.gov.uk/government/publications/reference-documents-for-the-customsreliefs-from-a-liability-to-import-duty-and-miscellaneous-amendments-eu-exit-regulations2020>



## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.

<sup>2</sup> Definition of “UK Reliefs document” amended by SD2021/0125.

<sup>3</sup> Para (1) amended by SD2021/0359.

<sup>4</sup> Para (7) inserted by SD2021/0359.

<sup>5</sup> Para (4) amended by SD2021/0125 and by SD2021/0291.